

No.

6013

United States
Circuit Court of Appeals
For the Ninth Circuit.

In the Matter of the Application of
WONG BING PON,
For a Writ of Habeas Corpus.

WONG BING PON,

Appellant,

vs.

WALTER E. CARR, District Director of District 31,
United States Immigration Service, at Los Angeles,
Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for the Southern
District of California, Central Division.

FILED

JAN 13 1931

PAUL P. O'BRIEN
CLERK



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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original record are printed literally in italic; and, likewise, cancelled matter appearing in the original record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italics the two words between which the omission seems to occur.]

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Names and Addresses of Attorneys.

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For Appellee :

SAMUEL W. McNABB, Esq., United States At-
torney;

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Federal Building, Los Angeles, California.

United States of America, ss.

To Walter E. Carr, District Director of District No. 31,
United States Immigration Service, at Los Angeles,
California and To S. W. McNabb, his Attorney,
Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be held at the City of San Francisco, in the State of California, on the 14th day of January, A. D. 1930, pursuant to an appeal allowed and filed in the Clerk's Office of the District Court of the United States, in and for the Southern District of California, in that certain Habeas Corpus Proceeding wherein Wong Bing Pon above named is appellant and you are appellee to show cause, if any there be, why the judgment, order and decree discharging the writ of habeas corpus and remanding the said Wong Bing Pon to the custody of said Walter E. Carr in the said appeal mentioned, should not be corrected, and speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable Wm P. James United
States District Judge for the Southern District
of California, this 16th day of December, A. D.
1929.

Wm P. James

U. S. District Judge for the Southern District of Cali-
fornia.

[Endorsed]: 9779-J. Cr. In the United States Circuit
Court of Appeals for the Ninth Circuit Wong Bing Pon
Appellant vs. Walter E. Carr Appellee Citation Copy
recd. S. W. McNabb, U. S. Atty by W. R. Gallagher,
Asst. Filed Dec. 17, 1929. R. S. Zimmerman, Clerk, by
Edmund L. Smith, Deputy Clerk. You Chung Hong,
attorney at law, 510½ N. Los Angeles St. Los Angeles,
Cal. Mutual 2709.

IN THE UNITED STATES DISTRICT COURT
WITHIN AND FOR THE SOUTHERN DIS-
TRICT OF CALIFORNIA Central Division

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In the Matter of the Application of)	
(
WONG BING PON,)	
(
For a Writ of Habeas Corpus,)	
(	No. 9779-J Cr
Ex SS. "President McKinley", June)	
16, 1929, at the port of San Pedro, (
Calif., No. 29160/101; B. S. I. #234,)	
and Manifest Number #2017/6. (
_____)	

PETITION FOR A WRIT OF HABEAS CORPUS

To the Honorable United States District Judge, now presiding in the United States District Court, in and for the Southern District of California, Central Division:—

The Petition of WONG LIP QU Respectfully Shows:—

—I—

That he is a native born citizen of the United States, having been born in the United States and subject to the jurisdiction thereof.

—II—

That he has, at all times, maintained his residence in the United States, although he has made the following trips to China, namely: (1) Departed from United States on or about June, 1893, and returned thereto on or about February, 1906, through the port of San Francisco, California; (2) Departed from the United States on or about March, 1913, and returned thereto on or about May, 1915,

via the port of San Francisco, California; and (3) Departed from the United States on or about August 18, 1923, and returned thereto on or about December, 1928; that incident to his return to the United States on each of the aforesaid trips, he was examined by the United States Immigration Authorities as to his citizenship, and, as a result, it was found and conceded by the said Immigration Authorities, on each of the occasions aforesaid, that he was a native born citizen of the United States.

—III—

That while in China between the years of 1893 and 1906, he married a Chinese woman by the name of Leung Shee, who was his lawfully wedded wife until and up to the time of her death in 1923.

—IV—

That, as a result of his second trip to China between the years of 1913 and 1915, there was born to him and to his said wife, Leung Shee, a son by the name of WONG BING PON; and that the said boy was born in the Bak Hong Village in China, on the 6th day of March, 1914.

—V—

That on the 16th day of June, 1929, his said son, Wong Bing Pon, arrived in the United States, at the port of San Pedro, California, and thereupon, applied to the United States Immigration Authorities for the said port, for admission into the United States; that his application for admission was based upon the ground that he is a citizen of the United States, in that he is the foreign born son of a native born citizen of the United States, under the provisions of Section 1993 of the Revised Statutes of the United States.

—VI—

That on the 24th day of June, 1929, the application of the said Wong Bing Pon was heard by a Board of Special Inquiry convened at the port of San Pedro, California, and, as a result, the said Board of Inquiry did not question your petitioner's status as a native born citizen of the United States, but that it found, however, that the relationship of father and son between your petitioner and the said Wong Bing Pon had not been satisfactorily established; that the said Board of Special Inquiry, thereupon, denied the application of the said Wong Bing Pon for admission into the United States and ordered his deportation to China; that an appeal was forthwith taken from the excluding decision of the said Board of Special Inquiry to the Secretary of Labor; and that the Secretary of Labor affirmed the excluding decision of the said Board of Special Inquiry, and that Walter E. Carr as District Director of Immigration for the port of San Pedro, California, has been ordered to deport the said Wong Bing Pon to China.

—VII—

That the said Wong Bing Pon is now being held in the custody of Walter E. Carr, as District Director of Immigration for the port of San Pedro, in the County of Los Angeles, State and Southern District of California, in the Central Division thereof, acting under the orders of the Secretary of Labor, and the said Walter E. Carr and has given notice of his intention to deport the said Wong Bing Pon on the first available steamer.

—VIII—

That your petitioner has filed herewith, as Exhibit "A", a copy of the transcript of the proceedings had before the

said Board of Special Inquiry on the 24th day of June, 1929, at San Pedro, California, containing the minutes of the hearing accorded to the said Wong Bing Pon and his witnesses by and the report and findings of the said Board of Special Inquiry which tried the case of the said Wong Bing Pon, and your petitioner hereby specifically refers to the said transcript with the same force and effect as if set forth in full herein; that in addition thereto, your petitioner has filed herewith, as Exhibit "B", a copy of the medical certificate, dated the 2nd day of July, 1929, by Dr. E. H. Anthony, United States Jail Surgeon for the Department of Justice, in the office of the United States Marshal in the Southern District of California, and as Exhibit "C", a copy of the medical certificate, dated on the 3rd day of July, 1929, by Dr. C. E. Emery, a practicing physician and surgeon of Hollywood, California, and as Exhibit "D", a copy of the medical certificate issued on the 8th day of July, 1929, by Dr. G. Lew Chee, a practicing physician and surgeon of Los Angeles, California, all of which were presented to the Secretary of Labor for his consideration in the appeal from the excluding decision of the said Board of Special Inquiry, and your petitioner hereby specifically refers to the said medical certificates as if set forth in full herein;

That your petitioner has not in his possession a copy of the report and findings of the Secretary of Labor to whom the said Wong Bing Pon appealed from the excluding decision of the Board of Special Inquiry, for the reason that the said report and findings are not available until subsequent to the filing of this petition and request will be made for the production of the same by the United States Attorney, as attorney for and in behalf of Walter E. Carr as

District Director of Immigration for the port of San Pedro, California, the Respondent herein, but, as your petitioner is advised and believes, the report and findings of the Secretary of Labor, by reason of the fact that he affirmed the excluding decision of the said Board of Special Inquiry, are substantially the same as the report and findings of the said Board of Special Inquiry.

—IX—

1. Your petitioner alleges that the fact that he was in China at a time to render possible his paternity to the said Wong Bing Pon, hereinafter referred to as the "detained", and the fact that he has on every occasion of his appearance before the Immigration Authorities subsequent to March 6, 1914, the date of birth of the detained, claimed a son of the same name and age as the detained, and the fact that Wong Bing Fuey, the prior landed son of your petitioner and brother of the detained, at the time of his admission to the United States claimed a brother of the same name and age as the detained, and the fact that your petitioner and the said Wong Bing Fuey and the detained had testified in substantially complete agreement upon every matter of family history, of conditions in their home village in China where the detained was born and has lived, of the principal events in the life of the detained, and the vital issues of relationship have established to a reasonable certainty that the relationship of father and son exists between your petitioner and the detained; and that the said Immigration Authorities, in finding that the said relationship has not been satisfactorily established, have rejected the aforesaid evidence so establishing the existence of the said relationship and have thereby acted arbitrarily and manifestly unfair, and have, as a result, denied the de-

tained the full and fair hearing to which he was and is entitled.

2. Your petitioner states upon information and belief, that the said Board of Special Inquiry and the Honorable Secretary of Labor have concluded that the relationship of father and son between your petitioner and the detained, has not been satisfactorily established because of the discrepancies cited on page 15 of Exhibit "A" hereof.

That in connection with the said discrepant statements your petitioner alleges that the Board of Special Inquiry and the Secretary of Labor have acted arbitrarily and manifestly unfair in urging them as a basis for denying the existence of the relationship of father and son between your petitioner and the detained in that (a) these matters are immaterial to and have manifestly no bearing upon the issue of the claimed relationship, (b) no false testimony is imputable to the detained, (c) some of the questions to which these discrepant statements made were insufficiently developed and failed to give the detained an opportunity to explain them and is contrary to the purpose of a proceeding of this nature which is to inquire into citizenship and not to develop discrepancies for the purpose of exclusion, and (d) some of the matters are too remote to merit consideration in view of the known frailty of human minds, and have, as a result, denied the detained the full and fair hearing to which he was and is entitled.

3. Your petitioner further states, upon information and belief, that the said Board of Special Inquiry had requested the surgeons of the U. S. Public Health Service to give the detained a physical examination and that on June

25, 1929 a Form 541 Medical Certificate was thereupon issued in which it was stated “In our opinion the above-named alien is nine years of age.”

That in connection with the said medical certificate, your petitioner alleges that the Board of Special Inquiry and the Secretary of Labor have acted arbitrarily and manifestly unfair in urging the said medical certificate as a basis for denying the existence of the relationship of father and son between your petitioner and the detained in that (a) it did not, in any manner, disclose any scientific data or facts upon which the expert's opinion was based—see *U. S. ex rel Brugnoli v Todd* 300 Fed 918 (920); *Woo Hoo v White*, 243 Fed 541/543; and *Ex parte Gin Mun On*, 286 Fed 752; it is therefore incompetent and should be disregarded, (b) no notice was given to the detained or his counsel that such a physical examination was to be taken and considered as evidence of the claimed relationship between the detained and your petitioner, (c) no opportunity was accorded the detained or his counsel to present medical evidence in support of the age claimed by the detained, (d) consent was not obtained from the detained or his counsel to take such a physical examination, and have, as a result, denied the detained the full and fair hearing to which the detained was and is entitled.

4. Your petitioner further states that subsequent to the detained's exclusion by the Board of Special Inquiry, counsel for the detained requested Dr. E. H. Anthony, United States Jail Surgeon in the employment of United States Marshal for the Southern District of California, and Dr. C. E. Emery, a practicing physician and surgeon of Hollywood, California, to examine the detained at the Immi-

gration Detention Station at San Pedro, California, and their reports and findings in support of the age claimed by the detained were thereupon submitted to the Secretary of Labor for his consideration, and that as the report and findings of the Secretary of Labor are not available at this time, your petitioner believes that the said Secretary of Labor by reason of the fact that he affirmed the excluding decision of the said Board of Special Inquiry has rejected the aforesaid medical certificates, Exhibits "B", and "C", which are in substantiation of the age claimed by the detained.

That in rejecting and failing to consider aforesaid evidence supporting the age claimed by the detained, your petitioner alleges that the Secretary of Labor has acted arbitrarily and manifestly unfair and has, as a result, denied the detained the full and fair hearing to which he was and is entitled.

—X—

Your petitioner states that the said Wong Bing Pon is in detention, as aforesaid, and for that reason is unable to verify this petition upon and in his own behalf and for the said reason, this petition is verified by your petitioner for and as the act of the said detained, and upon his own behalf.

WHEREFORE, your petitioner prays that a writ of habeas corpus may be granted, directed to the said District Director of Immigration, commanding him to hold the body of Wong Bing Pon, the detained, within the jurisdiction of this Honorable Court, at a time and place to be specified in said order, together with the time and cause of his detention, so that the same be inquired into

[Endorsed]: 9779 J Cr. United States District Court, Southern District of California, Central Division. Wong Bing Pon, plaintiff, vs. Walter E. Carr, District Director of Immigration, defendant. Petition for Writ of Habeas Corpus. Filed Aug. 30, 1929, R. S. Zimmerman, Clerk, by Murray E. Wire, Deputy Clerk. You Chung Hong, attorney at law, 510½ North Los Angeles St., Los Angeles, California. Mutual 2709.

IN THE UNITED STATES DISTRICT COURT
WITHIN AND FOR THE SOUTHERN DIS-
TRICT OF CALIFORNIA CENTRAL
DIVISION

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THE PRESIDENT OF THE UNITED STATES OF AMERICA, To: WALTER E. CARR, District Director of Immigration for the port of San Pedro, California, or Any Deputy or Officer Under his Supervision, Immigration District #31: No. 9779-J

You are hereby commanded to have the body of Wong Bing Pon, who is by you held and restrained of his liberty, as it is said, together with the day and cause of his caption and detention, by whatever name the said Wong Bing Pon may be known or called, safely before the Honorable Wm P. James, Judge of the United States District Court, within and for the Southern District of California, in the Central Division thereof, on the 23rd day of September 1929, at 2 15 o'clock in the afternoon

of that day, at Los Angeles, California, to do and receive all and singular those things which the said Judge shall then and there consider of you in this behalf,

And have you then and there this writ.

WITNESS, the Honorable Wm P. James, Judge of the said court, at Los Angeles, California, this 30th day of August, 1929.

ATTEST, my hand and seal of said Court, the day and year last above written.

[Seal]

R. S. Zimmerman

Clerk

By Murray E. Wire

Deputy

RETURN ON SERVICE OF WRIT

United States of America }
Southern District of California } ss.

I hereby certify and return that I served the annexed Writ of Habeas Corpus on the therein-named Walter E. Carr District Director etc by handing to and leaving a true copy thereof together with copy of petition with Joseph Conaty Assistant Director etc personally at Los Angeles in said District on the 30th day of August, A. D. 1929.

A. C. Sittel

U. S. Marshal

By John H Roche

John H Roche,

Deputy

[Endorsed]: Marshal Crim. Docket No. 24433. No 9779 J Cr. In the District Court of the United States for the So. Dist. of California Wong Bing Pon vs. Walter E. Carr, District Director of Immigration. Filed Sep. 3, 1929. R. S. Zimmerman, Clerk, by B. B. Hansen, Deputy Clerk. Y. C. Hong 510½ N. Los Angeles St. Los Angeles, Cal.

IN THE DISTRICT COURT OF THE UNITED
STATES IN AND FOR THE SOUTHERN
DISTRICT OF CALIFORNIA CENTRAL
DIVISION

In the Matter of)	
)	
WONG BING PON	)	No. 9779-J
	)	RETURN TO WRIT OF
For a Writ of Habeas	)	HABEAS CORPUS.
Corpus)	

I, Walter E. Carr, District Director of the United States Immigration Service, Immigration District No. 31, at Los Angeles, California, for my Return to the Writ of Habeas Corpus issued in the above case, admit, deny, and allege as follows:

I.

That WONG BING PON, in whose behalf Petition for Writ of Habeas Corpus is filed, hereinafter referred to as the Detained, was born in China and is of the Chinese race. He arrived at the port of San Pedro, California, on the 16th day of June, 1929, on the Steamship "President McKinley" and applied for admission at San Pedro as a citizen of the United States by virtue of the provisions of

Section 1993 of the revised statutes of the United States, the Detained claiming to be the son of Wong Lip Qu, the latter being a native born citizen of the United States. Thereafter the Detained was examined by the Board of Special Inquiry of the United States Immigration Service at San Pedro, California, and witnesses were called and testified in his behalf. At conclusion of said hearing, the Detained was excluded from admission to the United States "as an alien applicant ineligible to citizenship and not exempted under provisions of paragraph 13 (c) of the Act of 1924, he not having established his claimed relationship; as an applicant under 16 years of age and not accompanied by one or more parents; not in possession of an unexpired Immigration Visa; and likely to become a public charge."

Thereafter an appeal was filed in accordance with the provisions of the immigration law and a complete record of the proceeding held at San Pedro, California, was transmitted to the Secretary of Labor at Washington, D. C. The Detained was represented before the Board of Review of the Department of Labor at Washington, D. C. by Attorney Charles E. Booth of that city. On the 20th day of August, 1929, the Secretary of Labor caused an order to be issued affirming the excluding decision of the Board of Special Inquiry at San Pedro. Respondent was preparing to deport the Detained to China when this Habeas Corpus proceeding was instituted.

II.

Respondent admits the allegation numbered I of the Petition.

III.

Respondent admits that the dates covering the various trips Petitioner made to China, as set forth in Paragraph numbered II of the Petition, are substantially correct with the exception of the date when Petitioner made his first visit to China. Respondent therefore denies the allegation appearing in Paragraph numbered II of the Petition wherein it is alleged that Petitioner departed from the United States on or about June, 1893, and in reply thereto, Respondent alleges that the first departure of Petitioner for China was on or about the 3rd day of July, 1903, and not about June, 1893, as set forth in the Petition.

IV.

Respondent has no information or belief sufficient to enable him to determine the truth of the allegation set forth in Paragraph numbered III of the Petition and basing his denial on that ground denies the allegation as set forth in said Paragraph.

V.

Respondent has no information or belief sufficient to enable him to determine the truth of the allegation set forth in Paragraph numbered IV of the Petition and basing his denial on that ground denies the allegation set forth in said Paragraph.

VI.

Respondent admits the allegation set forth in Paragraph V of the Petition.

VII.

Respondent admits the allegation set forth in Paragraph numbered VI of the Petition.

VIII.

Respondent admits the allegation set forth in Paragraph numbered VII of the Petition.

IX.

Respondent admits the allegation set forth in Paragraph numbered VIII of the Petition.

X.

Respondent denies that the immigration authorities acted arbitrarily and unfairly and denied the Detained a full and fair hearing when they refused to accept as conclusive of the relationship claimed certain evidence presented in behalf of the Detained. In reply thereto, Respondent alleges that the evidence submitted did not satisfactorily establish the relationship claimed to exist between the Detained and Petitioner herein. Respondent admits, as set forth in Paragraph numbered IX (2) of the Petition that the Board of Special Inquiry at San Pedro, California, in reaching its conclusion that the relationship claimed did not exist took into consideration certain discrepancies cited on Page 15 of Exhibit A.

Respondent denies the allegation appearing in Paragraph numbered IX (2) of the Petition wherein it is alleged that said discrepancies were immaterial, insufficient, and too remote to be given consideration by the Board of Special Inquiry in reaching its decision, and in answer thereto alleges that the discrepancies referred to were of matters which should be of common knowledge between father and son, and the fact that these discrepancies exist justified the Board of Special Inquiry and the Secretary of Labor in concluding that the Detained is not the son of Petitioner herein. Such conclusion does not constitute unfairness on the part of the Board of Special Inquiry, nor on the part

of the Secretary of Labor. Respondent admits as set forth in Paragraph numbered IX (3) of the Petition that public health service surgeons accorded the Detained a physical examination on the 25th day of June, 1929, at which time no notice was given to the Detained or his Counsel that such physical examination was to be conducted. Respondent further admits that the consent of the Detained or his Counsel was not secured prior to said examination on June 25, 1929. Respondent further admits that following such examination the aforesaid public health surgeons filed a certificate which was made a part of the record in the case of the Detained and which certificate contained the finding that "in our opinion the above alien is 9 years of age". Respondent admits that the certificate in question is not the best evidence for no examination was accorded the public health surgeons in order that they might testify in detail why they reached the conclusion set forth in the certificate. Respondent contends however that the certificate in question did not serve as the sole basis of the excluding decision of the Board of Special Inquiry, nor did it serve as the sole evidence upon which the Secretary of Labor sustained said Boards decision. For this reason Respondent alleges that the admission of the certificate in evidence does not constitute unfairness to such an extent that the actions of the Board and the Secretary of Labor are unfair to the degree that the order denying the Detained entry into the United States should be vacated. Respondent admits that part of Paragraph IX (4) of the Petition wherein it is set forth that certain reports and findings were submitted by physicians and surgeons, but alleges that said reports and findings were considered by the Secretary of Labor in his

decision sustaining the action of the Board of Special Inquiry.

XI.

Respondent admits that he holds Wong Bing Pon in detention as set forth in Paragraph numbered X of the Petition and alleges that he intends to deport the Detained from the United States.

XII.

In obedience to the Writ of Habeas Corpus issued herein, I, Walter E. Carr Respondent, now produce the body of WONG BING PON before this Honorable Court to be dealt with according to law this 23rd day of September, 1929, and pray that the said WONG BING PON be remanded to my custody for deportation in accordance with the terms of the Act of February 5, 1917.

Walter E. Carr

[Seal]

Walter E Carr
District Director
Respondent

STATE OF CALIFORNIA)
) SS
COUNTY OF LOS ANGELES)

WALTER E. CARR, District Director of the United States Immigration Service, District No. 31, being first duly sworn, deposes and says that he is the person who makes the foregoing return; that he has read same and knows the contents thereof, and that same is true, except as to matters therein alleged on information and belief, and as to those matters that he believes it to be true.

Walter E. Carr

(Walter E. Carr)

Subscribed and sworn to before me this 21st day of September, 1929.

R. S. Zimmerman,
Clerk U. S. District Court, Southern District of California
By Edmund L. Smith
Deputy

[Endorsed]: No. 9779-J. In the District Court of the United States, for the Southern District of California, (Southern Division). In the matter of Wong Bing Pon, for a Writ of Habeas Corpus. Return to Writ. Service of copy hereof acknowledged this 21st day of Sept. 1929. Y. C. Hong, atty for petitioner. Filed Sep. 23, 1929. R. S. Zimmerman, Clerk, by Murray E. Wire, Deputy Clerk.

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF CALIFORNIA
CENTRAL DIVISION.

In the Matter of)	
	)	No. 9779-J. Cr.
WONG BING PON	)	STATEMENT OF
	)	CONCLUSIONS, and
On Habeas Corpus.	)	ORDER.

Petitioner sought to be admitted to the United States as the son of a native Chinese person, the latter concededly having been born in the state of California and being a resident therein. A board of immigration officers at the port of San Pedro, California, heard all of the witnesses on behalf of the alien. The conclusion arrived at was that the relationship between the petitioner and the alleged father had not been sufficiently established, because of doubt thrown on the testimony of the Chinese witnesses

by certain discrepancies in the testimony. The board concluded, also, as a part of its findings, that the alien was not sixteen years of age, as claimed, but about nine years of age. The recommendation that the alien be refused admission was confirmed on appeal, and a warrant of deportation followed. As to when the discrepancies in the testimony of Chinese witnesses in cases like this, are to be deemed so material as to warrant the rejection of the evidence, is left in some confusion by the many decisions to be found touching that matter. I believe that the decision of the immigration officers in this case should not be disturbed. The certificate of the federal health service, prepared during an interval in the hearing after an examination of the petitioner, was not incompetent, nor did it constitute illegal evidence. The weight to be given it was not that of conclusive proof, but as the expression of opinion merely. Moreover, the board which heard the petitioner's case had before it the person of the petitioner, and presumably used their own faculties in estimating his age as evidenced by his physical appearance, intelligence, etc.

The writ is discharged, and petitioner remanded to the immigration officers for deportation in accordance with the warrant of the Secretary of Labor.

Dated this 13th day of December, 1929.

Wm. P. James

U. S. District Judge.

[Endorsed]: No. 9779-J. Cr. U. S. District Court, Southern District of California. In the Matter of Wong Bing Pon on Habeas Corpus. Statement of Conclusions and Order. Filed Dec. 13, 1929 R. S. Zimmerman, Clerk, by Murray E. Wire, Deputy Clerk.

IN THE UNITED STATES DISTRICT COURT
WITHIN AND FOR THE SOUTHERN DIS-
TRICT OF CALIFORNIA CENTRAL
DIVISION

In the Matter of	(
)	
WONG BING PON	(	No. 9779-J Cr.
	)	Petition for Appeal
On Habeas Corpus.	(
)	
_____	(
)	

WONG BING PON, Petitioner above named, deeming himself aggrieved by the order and judgment entered herein on the 13th day of December, 1929, does hereby appeal from said order and judgment to the United States Circuit Court of Appeals, for the Ninth Circuit, and prays that a transcript and record of proceedings and papers on which said order and judgment was made, duly authenticated, may be sent to the United States Circuit Court of Appeals, for the Ninth Judicial District of the United States.

Dated this 16th day of December, 1929.

Y. C. Hong
(Y. C. HONG)
Attorney for Petitioner

The appeal is allowed. Dec. 16 1929

Wm P James

Dist Judge

[Endorsed]: Original. No 9779-J Cr. United States District Court, Southern District of California, Central

Division. Walter E. Carr, plaintiff, vs. Wong Bing Pon, defendant. Petition for Appeal. Received copy of the within Petition this 17th day of Dec. 1929. S. W. McNabb, U. S. Atty, by W. R. G. Filed Dec. 17, 1929. R. S. Zimmerman, Clerk, by Edmund L. Smith, Deputy Clerk. You Chung Hong, attorney at law, 510½ North Los Angeles St, Los Angeles, California. Mutual 2709

IN THE UNITED STATES DISTRICT COURT
WITHIN AND FOR THE SOUTHERN DIS-
TRICT OF CALIFORNIA CENTRAL
DIVISION

In the Matter of)
(
WONG BING PON)
(No. 9779-J Cr.
On Habeas Corpus.) ASSIGNMENTS OF ERROR
(
_____)

Comes now Wong Bing Pon, petitioner above named, and assigns error in the decision of the District Court for the Southern District of California, Central Division, as follows:

—I—

The Court erred in holding and deciding that the petitioner, Wong Bing Pon, be remanded to the custody of the Immigration officers and to the custody of Walter E. Carr, District Director of the United States Immigration Service at Los Angeles, California, respondent.

—II—

The Court erred in holding and deciding that the Writ of Habeas Corpus should be discharged.

—III—

The Court erred in holding and adjudging that the discrepancies in the testimony of the Chinese witnesses urged by the Immigration Authorities as a basis for denying the petitioner, Wong Bing Pon, admission to the United States, were not unfair and arbitrary.

—IV—

The Court erred in holding and adjudging that the medical certificate issued by the United States Public Health Service, used by the Immigration Authorities as a ground for denying the petitioner, Wong Bing Pon, the right to enter the United States, was incompetent.

—V—

The Court erred in holding and adjudging that the medical certificate issued by the United States Public Health Service, used by the Immigration Authorities as a ground for denying the petitioner, Wong Bing Pon, the right to enter the United States, was illegal.

—VI—

The Court erred in holding and adjudging that said Wong Bing Pon is subject to deportation and is not entitled to enter and remain in the United States.

Dated this 16th day of December, 1929.

Y C Hong

(Y. C. HONG)

Attorney for Petitioner

[Endorsed]: Original. No. 9779-J Cr. United States District Court, Southern District of California, Central Division. Walter E. Carr, plaintiff, vs. Wong Bing Pon, defendant. Assignments of Error. Received copy of the within assignments this 17 day of December, 1929. S. W. Nabb, U. S. Atty, by W. R. G. Filed Dec. 17 1929. R. S. Zimmerman, Clerk by Edmund L. Smith, Deputy Clerk. You Chung Hong, attorney at law 510½ North Los Angeles St. Los Angeles, California. Mutual 2709.

IN THE UNITED STATES DISTRICT COURT
WITHIN AND FOR THE SOUTHERN DIS-
TRICT OF CALIFORNIA CENTRAL
DIVISION

In the Matter of)	
	(
WONG BING PON	)	No. 9779-J Cr.
	(	Order Allowing an Appeal and
On Habeas Corpus.	)	Fixing Bond of Petitioner.
	(
_____)	

Now, to-wit: on this 16th day of December, 1929, it is ordered that the appeal be allowed as prayed for; and

IT IS FURTHER ORDERED that the petitioner for writ of habeas corpus, Wong Bing Pon, may, at any time pending said appeal, be at large upon executing a recognizance or bond to the United States of America in the sum of Five Hundred Dollars (\$500.00), conditioned according to law, for his appearance to answer the judgment of the District Court of Appeals of the Ninth Circuit if the judgment of the District Court shall be affirmed; and

IT IS FURTHER ORDERED that the petitioner, Wong Bing Pon, file a cost bond unto the United States of America in the sum of Two Hundred and Fifty Dollars (\$250.00), conditioned that said Wong Bing Pon shall prosecute his appeal to effect, and answer all cost if he fails to make his plea good.

Dated this 16th day of December, 1929, at Los Angeles, Cal.

Wm P James

(Wm P. James)

U. S. District Judge.

[Endorsed]: Original No. 9779 J Cr. United States District Court, Southern District of California, Central Division. Walter E. Carr, plaintiff, vs. Wong Bing Pon, defendant. Order Allowing Appeal and fixing bond of petitioner. Received copy of the within Order this 17th day of Dec. 1929. S. W. McNabb, U. S. Atty By W. R. G. Filed Dec. 17, 1929. R. S. Zimmerman, Clerk, by Edmund L. Smith, Deputy Clerk. You Chung Hong, attorney at law, 510½ North Los Angeles St, Los Angeles, California, Mutual 2709.

IN THE UNITED STATES DISTRICT COURT
WITHIN AND FOR THE SOUTHERN DIS-
TRICT OF CALIFORNIA CENTRAL
DIVISION

In the Matter of)	
	(
Wong Bing Pon,)	
	(	No. 9779-J. Cr.
On Habeas Corpus.	)	NOTICE OF APPEAL
	(
<hr style="width: 30%; margin-left: 0;"/>)	

To WALTER E. CARR, District Director of Immigration, Respondent, and to S. W. McNABB, United States Attorney, Attorney for Respondent:

You, and each of you, will please take notice that the petitioner, Wong Bing Pon, in the above entitled cause, hereby appeals to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment and order remanding said Wong Bing Pon to the custody of said Walter E. Carr, entered in the above entitled cause on the 13th day of December, 1929, and that the certified

transcript of record will be filed in the said Appellate Court within thirty (30) days from the filing of this notice.

Dated this 16th day of December, 1929.

Y C Hong
(Y. C. HONG)

Attorney for Petitioner

[Endorsed]: Original. No 9779-J Cr. United States District Court, Southern District of California, Central Division. Walter E. Carr, plaintiff, vs. Wong Bing Pon, defendant. Notice of Appeal. Received copy of the within Notice this 17th day of Dec. 1929. S. W. McNabb, U. S. Atty By W. R. G. Filed Dec. 17, 1929. R. S. Zimmerman, Clerk, by Edmund L. Smith, Deputy Clerk. You Chung Hong, attorney at law, 510½ North Los Angeles St. Los Angeles, California Mutual 2709.

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
WITHIN AND FOR THE SOUTHERN DIS-
TRICT OF CALIFORNIA CENTRAL
DIVISION

In the Matter of)
(
WONG BING PON,)
(No. 9779-J Cr
On Habeas Corpus.) BAIL BOND ON APPEAL
(
_____))

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, UNION INDEMNITY COMPANY, is held and firmly bound unto the United States of America, in the full and just sum of FIVE HUNDRED DOLLARS (\$500.00), to be paid to the United States of America, or their certain attorney, executors,

administrators or assigns; to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators jointly and severally by these presents.

SEALED with our seals and dated this 19th day of December, 1929.

WHEREAS, lately the District Court of the United States, for the Southern District of California, Central Division, in a habeas corpus proceeding in the said Court between petitioner, Wong Bing Pon, and the respondent, Walter E. Carr, District Director of Immigration as aforesaid, wherein an order, judgment and decree was rendered against the said Wong Bing Pon, discharging the writ of habeas corpus and remanding the said Wong Bing Pon to the custody of respondent, Walter E. Carr; and the said Wong Bing Pon having obtained from the said court an appeal to reverse the order, judgment and decree in the aforesaid habeas corpus proceeding, and a Citation directed to the said Walter E. Carr, District Director of Immigration as aforesaid, citing and admonishing him to be and appear at the United States Circuit Court of Appeals for the Ninth Circuit, to be holden at San Francisco, State of California, on the 14th day of January, 1930.

NOW, the condition of the above obligation is such that if the said order, judgment or decree be affirmed, the said Wong Bing Pon will surrender himself to Walter E. Carr, District Director of Immigration as aforesaid, then this recognizance be void; otherwise, to remain in full force and virtue.

UNION INDEMNITY COMPANY

By William M. Curran [Seal]

[SEAL]

Attorney in Fact

WILLIAM M. CURRAN

The premium charged for this bond is 10.00 Dollars per annum.

defendant. Bail bond on appeal. Filed Dec. 19, 1929 at 12 o'clock m. R. S. Zimmerman, Clerk, by W. E. Gridley Deputy. You Chung Hong, attorney at law, 510½ North Los Angeles St. Los Angeles, California. Mutual 2709.

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
WITHIN AND FOR THE SOUTHERN DIS-
TRICT OF CALIFORNIA, CENTRAL
DIVISION

In the Matter of)	
	(
WONG BING PON,)	
	(	No. 9779-J Cr
On Habeas Corpus.	)	COST BOND ON APPEAL
	(
_____)	

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, Union Indemnity Company, is held and firmly bound unto the United States of America, in the full and just sum of Two Hundred and fifty Dollars (\$250.00), to be paid to the United States of America, or their attorney, executors, administrators or assigns; to which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators jointly and severally by these presents.

Sealed with our seals and dated this 18th day of December, 1929.

WHEREAS, lately the District Court of the United States, for the Southern District of California, Central Division, in a habeas corpus proceeding in said Court between petitioner, Wong Bing Pon, and the respondent, Walter E. Carr, District Director of Immigration as aforesaid, wherein and order, judgment and decree was rendered against the said Wong Bing Pon, discharging the writ of habeas corpus and remanding the said petitioner, Wong Bing Pon, to the custody of respondent, Walter E. Carr; and the said Wong Bing Pon having obtained from the said Court an appeal to reverse the said order, judgment and decree in the aforesaid habeas corpus proceeding, and a Citation directed to the said Walter E. Carr, District Director of Immigration as aforesaid, citing and admonishing him to be and appear at the United States Circuit of Appeals for the Ninth Circuit, to be holden at San Francisco, State of California, on the 14th day of January, 1930,

NOW, the condition of the above obligation is such that if the said Wong Bing Pon shall prosecute his appeal to effect and answer all costs if he fails to make his plea good, then the above obligation to be void; otherwise, to remain in full force and virtue.

UNION INDEMNITY COMPANY

By William M. Curran

[SEAL]

Attorney in Fact

WILLIAM M. CURRAN

[Seal]

The premium charged for this bond is 10.00 Dollars per annum.

IN THE UNITED STATES DISTRICT COURT
WITHIN AND FOR THE SOUTHERN DIS-
TRICT OF CALIFORNIA CENTRAL
DIVISION

In the Matter of ()
WONG BING PON, () No. 9779-J Cr.
On Habeas Corpus. () Order for Transmission of
Original Exhibits
.....)

ON STIPULATION OF COUNSEL, it is by the Court ordered that the original records in the United States Immigration Office filed herein on the hearing of the Return of the Respondent Walter E. Carr, District Director of Immigration, to the Writ of Habeas Corpus, be transmitted by the Clerk of this Court to the United States Circuit Court of Appeals for the Ninth Circuit, as original exhibits in lieu of a certified copy of said records and files and that the same need not be printed.

Dated this 28th day of December, 1929.

Wm P James
United States District Judge

[Endorsed]: Original No 9779-J Cr. United States District Court, Southern District of California, Central Division. Wong Bing Pon, appellant, vs. Walter E. Carr appellee. Received copy of the within Stipulation and order this 28 day of Dec. 1929. S. W. McNabb, U. S. Atty, by W. R. Gallagher, Asst. Filed Dec. 28, 1929. R. S. Zimmerman, Clerk, by W. E. Gridley, Deputy Clerk. You Chung Hong, Attorney at law, 510½ North Los Angeles St. Los Angeles, California. Mutual 2709.

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
WITHIN AND FOR THE SOUTHERN DIS-
TRICT OF CALIFORNIA CENTRAL
DIVISION

In the Matter of	(
	)	No. 9779-J
WONG BING PON,	(Praecipe For Transcript of
)	Record on Appeal
On Habeas Corpus.	(
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TO THE CLERK OF THE SAID COURT:

Please prepare and duly authenticate the transcript and the following portions of the record in the above entitled case for appeal of said appellant heretofore allowed, to the United States Circuit Court of Appeals for the Ninth Circuit:

1. Petition for Writ of Habeas Corpus and Order granting the Writ;
2. Writ of Habeas Corpus;
3. Return to Writ of Habeas Corpus;
4. Order discharging Writ of Habeas Corpus and remanding Wong Bing Pon;
5. Petition for Appeal;
6. Order Allowing Appeal and Fixing Bond Thereon;
7. Notice of Appeal;
8. Assignments of Errors;
9. Citation;
10. Bail Bond on Appeal and the Court's Approval of Same;
11. Cost Bond on Appeal and Court's Approval;

12. Stipulation that original files and records of the U. S. Department of Labor be sent to the Clerk of the Circuit Court of Appeals for the Ninth Circuit as part of the appellate record;
13. Order for transmission of Original Exhibits; and,
14. This praecipe.

December 28th, 1929.

Y. C. Hong

(Y. C. HONG)

Attorney for Petitioner & Appellant

[Endorsed]: Original No 9779-J Cr. United States District Court, Southern District of California, Central Division. Wong Bing Pon, appellant, vs. Walter E. Carr appellee. Filed Dec. 28, 1929. R. S. Zimmerman, Clerk, by W. E. Gridley, Deputy Clerk. You Chung Hong, Attorney at law, 510½ North Los Angeles St. Los Angeles, California, Mutual 2709.

IN THE UNITED STATES DISTRICT COURT
WITHIN AND FOR THE SOUTHERN DIS-
TRICT OF CALIFORNIA CENTRAL
DIVISION

In the Matter of)	
	(
WONG BING PON	)	No. 9779-J Cr.
	(	CLERK'S
On Habeas Corpus.	)	CERTIFICATE.
	(
_____)	

I, R. S. Zimmerman, clerk of the United States District Court for the Southern District of California, do hereby certify the foregoing volume containing 36 pages, numbered from 1 to 36 inclusive, to be the Transcript of Record on Appeal in the above entitled cause, as printed by the appellant, and presented to me for comparison and certification, and that the same has been compared and corrected by me and contains a full, true and correct copy of the citation; petition for writ of habeas corpus, and order granting writ; writ of habeas corpus; return to writ of habeas corpus; order; petition for appeal; assignment of errors; order allowing appeal and fixing bond; notice of appeal; bail bond; cost bond; stipulation regarding original files; order for transmission of original exhibits and praecipe.

I DO FURTHER CERTIFY that the fees of the Clerk for comparing, correcting and certifying the foregoing Record on Appeal amount to.....and that said amount has been paid me by the appellant herein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Seal of the District Court of the United States of America, in and for the Southern District of California, Southern Division, this..... day of January, in the year of Our Lord One Thousand Nine Hundred and Thirty, and of our Independence the One Hundred and Fifty-fourth.

R. S. ZIMMERMAN,
Clerk of the District Court of the
United States of America, in and
for the Southern District of
California.

By

Deputy.